

**REMARKS**

Reconsideration and allowance of the above-referenced application are respectfully requested. No new matter has been added.

**35 U.S.C. § 103**

Claims 1-11, 17-41 and 49-52 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gopinathan et al. (U.S. Patent No. 5,819,226) in view of Fischthal (U.S. Patent No. 5,822,741) and Downs, Sean, "Technology, education aid medical fraud fighting." Claims 12-16 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gopinathan et al. in view of Fischthal, Downs, and Prezioso (U.S. Patent No. 5,724,488). Claims 45-48 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gopinathan et al. in view of Prezioso. Claims 45-48 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gopinathan et al. in view of Fischthal, Downs, Prezioso, and Werstein Hann, Leslie "High Tech Sleuths". These rejections are respectfully traversed.

The current subject matter relates to determination of premium fraud for insurance policies. Premium fraud can occur when the underlying information provided or otherwise used to determine a rate for an insurance policy turns out to be inaccurate for any of a variety of reasons. Claim 1 was amended to clarify that the variables are derived from policy related information provided by the policyholder in connection with the selected policy and that such derived variables do not include claim related information (for support, see, inter alia, specification page. 55). Similar amendments were made to claims 49, 53, and 59-61.

The inventors of the current subject matter, appreciated, that insurance fraud issues relate not only to fraudulent claims (where most attention had previously been focused) but also in

relation to the underlying information provided by a policyholder when underwriting a policy.

In fact, the inventors, being experts in the field, recognized an unmet need and invented techniques which dramatically increase revenue for insurance companies.

It is noted that the Gopinathan reference and the Downs reference include individuals common to the inventors of the current application. Downs, for example, relates to fraud in connection with claims (see, *inter alia*, Downs page 1, right column). While it is recognized that increased fraud can result in increased premiums, Downs is silent as to applying predictive technologies for premium fraud. Similarly, Fischthal, only cursorily describes that its techniques can be applied to insurance claims. Combining the cited references simply fails to suggest the recited subject matter. Therefore, it is respectfully submitted that the references are being viewed in light of hindsight of the subject matter recited in the claim.

Accordingly, claims 1, 49, 53, 59-61, and their respective dependent claims (if any), should be allowable.

With regard to claim 45, it is respectfully submitted that the cited references, whether considered singly or in combination fails to suggest the recited subject matter and that a *prima facie* case of obviousness has not been met. Prezioso and Gopinathan are both silent as to estimating quantities for hierarchically arranged categories and that estimates of quantities can be based on multiple levels in the hierarchy as recited in claim 45. Reconstructing the subject matter of claim 45 from these two references could not even be accomplished through impermissible hindsight.

Accordingly, claim 45 and its dependent claims should be allowable.

Concluding Comments

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. Applicant asks that all claims be allowed.

If there are any questions regarding these amendments and remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below. Applicant's Petition for a one-month extension of time. The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 35006-577001US.

Respectfully submitted,

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